

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

CARRIER IQ, INC. CONSUMER PRIVACY
LITIGATION

This Document Relates to:
ALL CASES

No. 12-md-2330-EMC

~~PROPOSED~~ ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS SETTLEMENT,
CERTIFICATION OF SETTLEMENT
CLASS, AND APPOINTMENT OF CLASS
REPRESENTATIVES AND CLASS
COUNSEL

Date: July 28, 2016
Time: 1:30 p.m.
Place: Courtroom 5, 17th Floor
Judge: Hon. Edward M. Chen

1 WHEREAS, the above-entitled MDL action is pending before this Court (the
2 “Litigation”);

3 WHEREAS, the Court, having reviewed Plaintiffs’ Motion for Final Approval of Class
4 Settlement, Certification of Settlement Class, and Appointment of Class Representatives and Class
5 Counsel, the evidence and argument provided by the Parties at the Final Approval Hearing, and all
6 pleadings and papers on file in this action; and

7 WHEREAS, all defined terms herein have the same meanings as set forth in the Amended
8 Stipulation of Settlement and Release filed on February 29, 2016 (“Stipulation”) (Dkt. No. 419);

9 NOW, THEREFORE, IT IS HEREBY FOUND AND ORDERED:

10 1. This Court has jurisdiction over the subject matter of the Litigation and over all
11 Parties to the Litigation, including all members of the Settlement Class.

12 2. The Court hereby grants final approval to the Stipulation and the Settlement set
13 forth therein.

14 3. The Court finds that the Settlement as set forth in the Stipulation is, in all respects,
15 fair, adequate, and reasonable to the Settlement Class.

16 4. The Court certifies, for settlement purposes only (and for no other purpose and with
17 no other effect upon the Litigation), a class defined as all persons in the United States who, from
18 December 1, 2007 through March 1, 2016, purchased, owned, or were an Authorized User of any
19 Covered Mobile Device. “Authorized User” means a person authorized by name on the Wireless
20 Provider account for a Covered Mobile Device during the Class Period. “Authorized User” also
21 means a person who, during the class period, purchased or owned a Covered Mobile Device
22 identified on the Wireless Provider account of another person (such as the Wireless Provider
23 account of a family member or spouse) by the telephone number assigned to it.

24 5. The Court finds, for settlement purposes only, that class certification under Federal
25 Rules of Civil Procedure 23(b)(2) and (b)(3) is still appropriate in the settlement context because
26 (1): the Defendants are alleged to have acted or refused to act on grounds that apply generally to
27 the Settlement Class, so that the Settlement’s described injunctive and non-monetary relief is
28 appropriate with respect to the Settlement Class as a whole; and (2): (a) the Members of the Class

1 are so numerous that joinder of all Class Members in the Action is impracticable; (b) there are
 2 questions of law and fact common to the Settlement Class which predominate over any individual
 3 questions; (c) the claims of the Named Plaintiffs and proposed Class Representatives are typical of
 4 the claims of the Class; (d) the Named Plaintiffs and proposed Class Representatives and their
 5 counsel will fairly and adequately represent and protect the interests of the Class Members; and
 6 (e) a class action is superior to other available methods for the fair and efficient adjudication of the
 7 controversy.

8 6. The Court appoints Named Plaintiffs Patrick Kenny, Daniel Pipkin, Jennifer
 9 Patrick, Dao Phong, Ryan McKeen, Leron Levy, Luke Szulczewski, Michael Allan, Gary Cribbs,
 10 Shawn Grisham, Bobby Cline, Mark Laning, Clarissa Portales, Douglas White, Eric Thomas,
 11 Brian Sandstrom, and Colleen Fischer as Class Representatives, and the law firms of Hagens
 12 Berman Sobol Shapiro LLP and Pearson, Simon & Warshaw, LLP as Class Counsel.

13 7. The Court finds that the forms of notice to the Class Members regarding the
 14 pendency of this Action and the methods of dissemination of notice in accordance with the terms
 15 of the Court's Second Amended Order Preliminarily Approving Settlement; Appointing Class
 16 Representatives and Class Counsel; Appointing Claims Administrator; and Providing for Notice to
 17 Settlement Class Members (Dkt. No. 421) constituted valid, due, and sufficient notice to the Class
 18 Members pursuant to Federal Rule of Civil Procedure 23, the United States Constitution, and any
 19 other applicable law ("Notice Program"). The Court further finds that the Notice Program
 20 constituted the best notice practicable under the circumstances given the size of the Settlement
 21 Class, the lack of addresses for direct notice, and the inability of Plaintiffs to obtain such addresses
 22 from the Wireless Providers for Settlement Class Members.

23 8. The Court finds that the persons identified in Exhibit A attached hereto have timely
 24 and validly requested exclusion from the Class, and are, therefore, excluded accordingly. Such
 25 persons are not included in or bound by the Final Judgment in this Action. Such persons are not
 26 entitled to any recovery obtained through this Settlement.

27 9. The Court, having considered the timely objections to the Settlement, as well as the
 28 responses of the Plaintiffs filed on July 14, 2016, and any oral argument as to these objections,

1 hereby overrules all such objections.

2 10. The Court hereby dismisses on the merits and with prejudice the claims asserted in
3 the Litigation by Plaintiffs against Defendants.

4 11. In accordance with the terms of the Settlement, the Releasing Parties hereby fully,
5 finally, and forever release, relinquish and discharge against each of the Released Parties and all
6 persons acting through, under, or in concert with each such Released Party, all claims in the
7 Action. Specifically, the Releasing Parties release any and all past, present or future claims,
8 causes of actions, suits, petitions, demands in law or equity, or any allegations of liability or
9 damages, debts, contracts, agreements, obligations, promises, attorneys' fees, costs, interest, or
10 expenses that have been, may be, or could be asserted in the Action, any complaint filed in any of
11 the Pre-Consolidated Actions, any subsequent amended complaint filed in this or any related case,
12 or in any other action, court, arbitration, tribunal or administrative body, regardless of whether
13 those claims are based on federal, state or local law, statute, ordinance, regulations, contract,
14 common law, or any other source, that are based upon, arise out of, or are related to or connected
15 with, directly or indirectly, in whole or in part, the facts, activities, or circumstances alleged in the
16 Third Consolidated Amended Complaint, any claims asserted against Defendants relating to this
17 Action, or any other purported occurrence relating to or arising from the presence or operation of
18 Carrier iQ Software on any Covered Mobile Device (the "Released Claims") during the Class
19 Period.

20 12. Without affecting the finality of the Final Judgment in any way, the Court hereby
21 retains continuing and exclusive jurisdiction over and for the purposes of: (a) implementation of
22 the Settlement and any distribution to Class Members pursuant to further orders of this Court; (b)
23 hearing and determining Plaintiffs' Motion for Award of Attorneys' Fees, Costs, Expenses, and
24 Service Awards to Class Representatives; (c) Defendants until the Final Judgment contemplated
25 hereby has become effective and each and every act agreed to be performed by the Parties has
26 been performed pursuant to the Settlement; and (d) all Parties and Class Members for the purpose
27 of enforcing and administering the Settlement.

28 13. In the event the Settlement does not become effective, then the judgment shall be

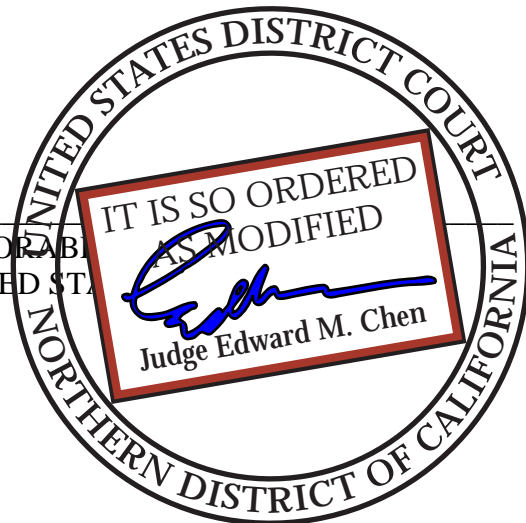
1 rendered null and void and shall be vacated, and in such event, all orders entered and releases
2 delivered in connection herewith shall be null and void and the parties shall be returned to their
3 respective positions *ex ante*.

4 14. The Court finds, pursuant to Federal Rules of Civil Procedure 54(a) and 54(b), that
5 the Final Judgment should be entered as to the Parties in this Action. Accordingly, the Clerk is
6 hereby directed to enter judgment forthwith.

7 IT IS SO ORDERED.

8
9
10 DATED: August 25, 2016

11 HONORABLE
12 UNITED STATES



13
14
15
16 **Modification made to Exhibit A of this Order**
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

EXHIBIT A

In re Carrier IQ, Inc. Consumer Privacy Litigation

Requests for Exclusion

1. ARAINA MCARTHUR;
2. JAMES E. FELTON;
3. GLENNA GHOLSON O'DELL; and
4. JOSEPH J. ABERK II
5. KASEY F. HOFFMAN